

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

<p>BETTY JEAN MYERS, <i>Plaintiff-Appellant,</i></p> <p style="text-align:center">v.</p> <p>PHILIP MORRIS COMPANIES, INC.; BROWN &amp; WILLIAMSON TOBACCO COMPANY CORP.; R.J. REYNOLDS TOBACCO COMPANY, <i>Defendants-Appellees.</i></p>
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No. 99-17383  
D.C. No.  
CV-99-05449-REC  
OPINION

Appeal from the United States District Court  
for the Eastern District of California  
Robert E. Coyle, District Judge, Presiding

Submitted\*  
December 15, 2000 — San Francisco, California

Submission Withdrawn and Deferred,  
Certified to California Supreme Court  
February 14, 2001

Certification to California Supreme Court Amended  
March 28, 2001

Resubmitted September 30, 2002

Filed September 30, 2002

Before: Robert Boochever, Diarmuid F. O'Scannlain, and  
A. Wallace Tashima, Circuit Judges.

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\*The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Per Curiam Opinion

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**COUNSEL**

Andre P. Gaston, Bourdette & Partners, Visalia, California,  
for appellant Betty Jean Myers.

Keith D. Kessler, Howard, Rice, Nemerovski, Canady, Falk  
& Rabkin, San Francisco, California, for appellee R.J. Reyn-  
olds.

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**OPINION****PER CURIAM:**

In light of the answer given to the question certified to the Supreme Court of California, *Myers v. Philip Morris Cos.*, 239 F.3d 1029 (9th Cir. 2001), this case is REMANDED to the District Court for further proceedings consistent with *Myers v. Philip Morris Cos.*, 50 P.3d 751 (Cal. 2002) and *Naegele v. R.J. Reynolds Tobacco Co.*, 50 P.3d 769 (Cal. 2002).